

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

LOUIS M. BINALEY,

Plaintiff,

v.

AT&T UMBRELLA BENEFIT PLAN NO. 1,
et al.,

Defendants.

Case No.: 11-cv-04722-YGR

**ORDER GRANTING MOTION FOR SUMMARY
JUDGMENT**

On December 18, 2012, Defendant AT&T Umbrella Benefit Plan No. 1 filed a Motion for Summary Judgment or, in the Alternative, Motion for Summary Adjudication. (Dkt. No. 31.) On January 2, 2013, Plaintiff Louis Binaley filed a Statement of Non-Opposition to Defendants' Motion for Summary Judgment. (Dkt. No. 38.) Plaintiff states that the non-opposition has been filed after due consideration of Ninth Circuit authority and a diligent consideration of the potential evidentiary basis to distinguish such authority. (*Id.*) No reply was filed by Defendants.

The Court finds that this motion, which has been noticed for hearing on January 22, 2013, is appropriate for decision without oral argument pursuant to Federal Rule of Civil Procedure 78(b) and Civil Local Rule 7-1(b). Accordingly, the Court **VACATES** the January 22, 2013 hearing.

In light of Plaintiff's non-opposition to the Motion for Summary Judgment, the Court hereby **GRANTS** that motion. The parties shall meet and confer and submit a proposed form of judgment within fourteen (14) days. This Order terminates Dkt. No. 31.

IT IS SO ORDERED.

Dated: January 11, 2013


YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE